

DEATH TAX

Mr. THUNE. Mr. President, last week I introduced a bill to permanently repeal the death tax.

I have been pushing to repeal the death tax for a long time because I have seen the consequences the tax can have for family farms and ranches and for family businesses. And I am proud that we protected a lot of family farms and businesses 3 years ago with the Tax Cuts and Jobs Act by doubling the death tax exemption, but the death tax is still a big problem.

First of all, the change we made to the death tax in the Tax Cuts and Jobs Act isn't permanent. The increased exemption level expires at the end of 2025.

Second, Democrats, who are always eager to seize any possible revenue source, have proposed not merely returning the exemption to its previous level but reducing it even further. And that would be a big problem for a lot of family farms and businesses.

The death tax is a fundamentally flawed idea, both in theory and in practice. Every American, of course, has an obligation to pay taxes to help support our government, but there should be a limit to how many times the government can tax you. And death should not be a taxable event.

The money you leave at your death has already been taxed by the government at least once, which makes the death tax double taxation.

People who support the death tax tend to talk as if the death tax only affects the fabulously wealthy, but that isn't the case. Small- and medium-sized businesses, family farms, and ranches spend a lot of time and money on estate planning to avoid being hit by this tax. Farmers and ranchers in my State know, without careful and costly planning, the Federal Government can come around after their death demanding a staggering 40 percent of their taxable estate, and their children won't have the money to pay without risking the farm or the ranch. Why? Well, farming and ranching is often a cash-poor business.

A farmer might, technically, be worth several million dollars, but the vast majority of that is land and farming equipment. Only a small fraction of it is money in the bank.

The Farm Bureau reports that over the past 10 years, the value of farmland has increased by nearly 50 percent. It is completely possible that a farmer's land might have substantially increased in value over the past decade, while his income has barely increased at all or, with commodity prices the past few years, they may have been losing money. In fact, it is perfectly possible that in a bad year, a farm with several million dollars' worth of land might barely break even income-wise.

So what happens when a farmer dies? Well, the Federal Government will claim up to 40 percent of his taxable estate. But his liquid assets—in other words, the cash he has available—will likely not come close to covering the

tax bill from the Federal Government. And so the only thing left for his children to do will be to start selling off farm equipment and land. In some cases, they will be able to keep the farm, just a smaller version of it. In others, they may have to sell off the family farm entirely. The same thing can happen with family-owned businesses.

In the case of a larger family-owned business, the business owner may be worth \$15 or \$20 million, but only a small fraction of that may be money in the bank. The vast majority may be tied up in the business. In that case, when the Federal Government comes around demanding 40 percent of the taxable estate, all the money that that business owner had in the bank won't even come close to covering the tax bill.

To pay the Federal Government, the owner's descendants will have to sell off part or all of the family business. And this can happen again and again.

Think about a business that was started half a century ago and passed down from father to daughter, to grandson. With every death, the Federal Government will have come demanding a big chunk of that estate. By the time you get to the third generation, the business may be struggling to stay afloat if it is still around at all.

I recently read testimony from a business owner who stated that, without death tax reform, the family company will end with him. Why? Because the company will have to be sold to meet the tax bill the Federal Government will hand his descendants. The company has already faced the death tax multiple times in its history and given millions upon millions to the Federal Government. This next death tax bill will be the death blow.

I am proud that Republicans improved the death tax situation for a lot of family farms and businesses by passing estate tax reform in the Tax Cuts and Jobs Act, but doubling the exemption is not enough. There are still family farms and businesses out there that aren't protected from this tax. And in my view, losing even one family farm or ranch or business to the death tax is one too many, not to mention the fact that in less than 5 years, the expanded exemption will expire putting many farms and businesses back in the tax's crosshairs.

Family farms and businesses play a vital role in the economy and in communities. Family farms and ranches are the lifeblood literally of rural communities in South Dakota. They are a source of jobs. They provide support for local businesses. They help build up local schools and local infrastructure. Losing a local farm can hit rural communities very hard.

It is mind-boggling that the Federal Government imposes a tax that punishes all the things we should be encouraging. The death tax punishes hard work. It punishes success. It punishes innovation. "Success" should not be a

dirty word, and families and employees should not be punished because a family has worked hard and built up a successful farm or ranch or business.

On top of all this, the death tax is an inefficient tax that raises a small amount of revenue while placing a very large burden on farmers and ranchers and small business men and women.

Repealing the death tax is an idea that has won bipartisan support in the past, including support from more than one sitting Democratic Senator. I hope it will win bipartisan support in this Congress as well. And I will continue to fight to ensure that no family farm or business has to worry about this punishing tax.

I said it before, and I will say it again: One family farm or business lost is one too many.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PADILLA). Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FILIBUSTER

Mr. DURBIN. Mr. President, it is flattering when the Republican Senate leader comes to the floor and mentions your name, and Senator MCCONNELL did just that this morning.

The issue was the filibuster. Senator MCCONNELL found a quote several years ago where I spoke in favor of the filibuster to protect minority rights in the Senate. It is true. I did say that. It was based on life experience. Having already served in the Senate for a number of years, I came to understand how it evolved as one of the procedures in the Senate.

But I have to say to you that my impression of the filibuster changed, and the reason it changed was none other than the Republican Senate majority leader, now minority leader, Senator MCCONNELL. You see, the filibuster really was created in the Senate through its own rules, as I explained yesterday, and it came to define the Senate in this respect. The Founding Fathers looked to the Senate to provide two representatives—literally, Senators—from each State, regardless of population, so smaller States, back in the original Colonies, like Delaware, would have the same number of Senators as a large State, like Virginia. That was their intention.

So the protection of minority rights was kind of built into the definition of the U.S. Senate, and the filibuster became its manifestation in the daily procedure of the Senate. Under that filibuster, of course, one Senator could stop the debate, or at least slow it